WPMS 862/2007

Hon'ble Tarun Agarwala, J.

Heard Sri Bharat Tewari, the learned counsel for the petitioners.

The petitioners filed a suit before the Judge Small Cause Court for recovery of arrears of rent and damages and for ejectment of the defendant from the premises in question. It was contended that the Act No. 13 of 1972 was not applicable and consequently, a notice under Section 106 of the Transfer of Property Act was issued terminating the tenancy of the defendant. The defendant resisted the suit and contended that the Act No. 13 of 1972 was applicable and that the petitioners cannot be evicted except under the provision of the said Act. The Judge Small Cause Court decreed the suit holding that the Act No. 13 of 1972 was not applicable and that a valid notice was given terminating the tenancy and consequently, the defendant was liable to be evicted. The defendant, being aggrieved, filed a revision under Section 25 of the Provincial Small Cause Courts Act, which was allowed and the matter was remitted back to the trial court for a fresh decision. The revisional court found that the trial court has not adverted to various decisions placed by the defendant as well as the evidence with regard to the fact as to whether the Act No. 13 of 1972 was applicable or not. The revisional court further found that the trial court was further required to give a finding as to whether the defendant was in arrears of rent or not and, whether the tenancy was validly terminated or not and, on these grounds, the revisional court remitted back the matter to the trial court for a fresh decision.

Having heard the learned counsel for the plaintiffs/petitioners, the Court finds that the trial court did not consider these aspects as pointed out by the revisional court. Consequently, the Court does not find any error in the impugned order. The writ petition fails and is dismissed.

(Tarun Agarwala, J.)

06-01-2012
SP